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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/980,284	02/21/2002	Paul William Chapman	3315/31	2918

7590 12/19/2003

Brown Raysman Millstein  
Felder & Steiner  
900 Third Avenue  
New York, NY 10022

EXAMINER
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TRETTEL, MICHAEL

ART UNIT	PAPER NUMBER
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3673

DATE MAILED: 12/19/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

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**Office Action Summary**

**Application No.**

09/980,284

**Applicant(s)**

CHAPMAN ET AL.

**Examiner**

Michael Trettel

**Art Unit**

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 12 November 2003.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-4 and 6 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 5,7 and 8 is/are allowed.
- 6) ☒ Claim(s) 1-4 and 6 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. §§ 119 and 120**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All   b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.  
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)                      4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)                      5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 15 .                      6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

***Claim Rejections - 35 USC § 102***

Claims 1 to 4 and 6 are rejected under 35 U.S.C. 102(b) as being anticipated by Liu (5,774,917). Liu shows an air mattress that comprises a series of transversely extending air cells 1 that can be alternately inflated and deflated to move a patient laying upon the mattress. Each cell 1 is subdivided into a right cell 11 and left cell 12 split by a central partition 10, with an air inlet 34 being provided to supply each cell half with pressurized air through a pair of conduits 35, 35a. Each air cell 11, 12 include a secondary embedded air cell 2 of substantially cubic form that is separately inflated and deflated through an air inlet 31 and conduit 32. The embedded cells 2 act as a side barrier for a patient being turned by the alternate inflation and deflation of the air cells 11, 12, as shown in Figures 7 and 9. As shown in Figure 5 each embedded cell 2 is of a lesser height than the overall height of the primary air cell into which it is placed. In column 2, lines 57 to 68 and column 3, lines 1 to 11 the embedded air cells can be set at a higher pressure than the primary air cells 11, 12 when the air cells 11,12 are alternately inflated and deflated to transversely rock a patient. This is because the air cells act as a side guard for a patient, in order for them to act in this fashion they would have to be inflated to a pressure higher than the primary cell into which each cell 2 is embedded. In addition to the above, the examiner notes

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that the embedded air cells 2 are inherently capable of being inflated to a pressure higher than the primary cells 11, 12, in which case the limitations of claim 1 have been met.

***Allowable Subject Matter***

Claims 5, 7, and 8 are allowed.

***Response To Arguments***

Applicant's arguments filed on November 12, 2003 have been fully considered but they are not persuasive. Upon consideration of the applicant's arguments the examiner has decided to repeat the rejection for the following reasons. The applicant has argued that the Liu patent does not anticipate the claimed subject matter because of the use of the internal diaphragm or wall 10 within the air cell, which splits the air cell into two subcells on each side of the mattress. This in turn forms a set of side by side air cells that extend along the length of the mattress. While it is true that the Liu reference can be interpreted as being drawn to a pair of side by side cells as argued by the applicant, please note that there is no language present in the claims that precludes the use of an internal wall or diaphragm within an air cell. As shown and disclosed each air cell 1 of the Liu device are formed as a unitary structure that includes an internal wall 10, and a secondary set of separate and internal air cells 2 within the ends of the air cell 1. This is best illustrated by Figure 5 of Liu. The internal wall 10 may form a split air cell that includes secondary subcells forming the ends of the cell, but the claims do not preclude the existence or use of an internal wall that splits the cell into a pair of subcells. Because of this the rejection has been repeated.

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***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Trettel whose telephone number is 703-308-0416. The examiner can normally be reached on Monday, Tuesday, Thursday, or Friday from 7.30 am to 5.00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Heather Shackelford, can be reached on (703) 308-2978. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.



Michael Trettel  
Primary Examiner  
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